

# Bankruptcy “Reform” in Congress: Creditors, Committees, Ideology, and Floor Voting in the Legislative Process

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## Abstract

Both ideology and interest group interventions are important in voting on bankruptcy legislation. Roughly 15 votes in the House appear to have been changed directly through interest group pressures proxied by campaign contributions. Many more could have been changed if resources could be fully devoted to spot purchases, but most contributions appear to have been aimed at maintaining legislation on the agenda. In the Senate, state interests on homestead exemptions influenced voting. Although committee markups demonstrate an ideological lineup that is not distinct from floor voting, committees promote bargaining on destabilizing issues.

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## I. Introduction

Bankruptcy “Reform” has been a major source of political conflict since the mid 1990s. This essay is an analysis of floor and committee voting on bankruptcy bills in the House and Senate in 2001.

We use the essay to address a number of substantive and theoretical questions:

- Are voting decisions best understood as expressing ideology or do either campaign contributions or local economic interests predominate? We find that ideology is highly significant. Controlling for ideology, we also find that voting in the House of Representatives strongly reflects campaign contributions by members of the National Consumer Bankruptcy Coalition, an umbrella organization for creditors. (The lobby has recently changed its name to the Coalition for Responsible Bankruptcy Law.) Similarly, the presence of unlimited homestead exemptions in a senator’s state significantly predicted Senate voting.
- We find that the pattern of contributions and the large majorities for the bill are only roughly consistent with the vote-buying model proposed by Groseclose and Snyder (1996). In fact, the coalition garnered far fewer votes than would have been possible with optimal spot purchases. Undoubtedly the coalition needed to pursue broader goals, such as convincing the Republican leadership to keep bankruptcy on the agenda.
- What are appropriate formal model structures for understanding Congress? We find that both the interaction of institutional structure and the liberal-conservative preferences of members, as emphasized by Krehbiel (1998) and bargaining, as described by Baron and Ferejohn (1989), are relevant to the evolution of legislation.
- Do legislators engage in strategic behavior, particularly with respect to formulating killer amendments, as emphasized by Riker (1980)? We suggest that both homestead exemptions

and the treatment of right-to-life abortion protestors may have killer properties. We emphasize that kill opportunities exist not only within one chamber, as in most illustrations in the literature, but across chambers.

We return to these issues shortly. But we begin by reviewing the recent history of bankruptcy legislation.

#### A. Legislative History

Bankruptcy “Reform” had passed both chambers in various incarnations during the Clinton administration but had always met with presidential opposition. On December 19, 2000, the president pocket vetoed a bill that had obtained a two-thirds majority in both houses of Congress<sup>1</sup>.

The House and Senate passed separate bills in early 2001. After the triple bewitching of the defection of Senator James Jeffords of Vermont<sup>2</sup>, the recession, and the 9/11 tragedy, a conference met only on November 14. The major differences in the bills were Senate amendments that capped state homestead and personal property exemption levels for individual bankruptcies at \$125,000 and removed bankruptcy protection for civil judgments against violent abortion protestors. Right after the Senate acted, Republicans were concerned about a stalemated conference.<sup>3</sup> By November 10, House Judiciary Committee Chairman Sensenbrenner (R-WI) expressed pessimism about any chances for agreement.<sup>4</sup> The bill did emerge from conference in July of 2002. Nonetheless, the abortion provisions have attracted the ire of House conservatives, keeping the conference report from a vote until at least September.<sup>5</sup>

The legislation represents an important retreat from the pro-debtor, “fresh start” tradition of American consumer bankruptcy law (Skeel, 2001). Debtors with income above the median income of their state would be unable to seek the immediate discharge from unsecured debt, credit card debt in particular, embodied in Chapter 7. These debtors would be forced to adopt at

least a partial repayment schedule under Chapter 13. Moreover, poorer debtors, even no asset cases, are forced to undergo “counseling” before entering Chapter 7. This and other aspects of the law deter bankruptcy by raising the cost of filing.<sup>6</sup>

The prolonged political debate on reform stands in contrast to an entire century where bankruptcy legislation did not generate much partisan excitement or ideological heat. The most important twentieth century changes to the law, the Chandler Act of 1938, and the adoption of Chapter 11 for corporations in 1978, did not result in a single recorded roll call on the floor of Congress. The major players were the bankruptcy bar and other interest groups (Posner, 1997; Skeel, 2001). Legislation was crafted on a stage whose curtain was never raised to the general public.

In 2001, in contrast, there were ideological votes in Congress, with some liberal Democrats constituting the opposition. Consumer advocates, most notably Harvard Law School professor Elizabeth Warren, the former “Reporter/Consultant” to the National Bankruptcy Review Commission, viewed the bill as a harsh rip-off by the credit card industry. Warren also argued that congressional action was entirely the consequence of political contributions by banks.<sup>7</sup>

The industry, in contrast, saw the bill as a legitimate response to the alleged widespread presence of strategic default in the more than one million personal bankruptcies that occur each year. Since the bills were passed, filings have jumped sharply to a record annual rate in excess of 1.5 million.<sup>8</sup>

How much of the bankruptcy wave is strategic, how much is induced by over-competitive lending and inadequate screening by credit card issuers, and how much value society should place on a “fresh start” are important empirical and normative questions that this paper does not address. We limit ourselves to an analysis of the legislative politics of the bills.

## B. Large Majorities: Overcoming Vetoes and Buying Votes

Most striking in the legislative history are the large majorities that passed the bills in the current Congress. The House passed its bill by a 306-108 vote, 16 votes more than the 290 needed to override a presidential veto; the 83-15 margin in the Senate was “veto proof” by 16 votes. Why such large majorities? The bills were voted in March 2001. Those who might be “bought” needed campaign contributions before the November 2000 elections. In making contributions for the 2000 election cycle, the credit card industry could have sought to construct a large coalition given President Clinton’s earlier pocket veto and the quite reasonable possibilities that either Al Gore, not George W. Bush, would succeed Clinton or that the Democrats would control at least one House of Congress and thereby exercise control over the congressional agenda. Moreover, since there is uncertainty about both the outcomes of individual congressional races and whether non-enforceable voting buying “contracts” would be respected on the floor, it is natural to think that a large coalition would be crafted.

Another reason for large majorities is that bills must be crafted not to appeal to the median voter in each chamber but to the relevant pivots (Krehbiel, 1998). Assume voting on the bill is determined by liberal-conservative ideology. Assume further that the bills were in a conservative direction from the status quo. Had Gore won and been willing to veto, the votes of the veto pivots in the House and Senate would have been necessary. The bills introduced by Representative Gekas and Senator Grassley were in fact largely carry overs from legislation considered in the Clinton era. The bills were undoubtedly more moderate than what the credit card industry would have wished.<sup>9</sup> (Conversely, making the bills more conservative to reflect the Bush presidential success might have promoted a filibuster in the Senate.)

Thus, the bill may have been designed to elicit the support of many Democrats. Their support is nonetheless surprising given that the party’s electorate is increasingly concentrated in

the bottom half of the income distribution (McCarty, Poole, and Rosenthal, 1997, 2001) and that personal bankrupts are very disproportionately concentrated in the bottom half (Sullivan, Warren, and Westbrook, 2000). Of the 105,000,000 households in the United States, at least 10,000,000, probably many more, have filed for bankruptcy at one point. (The 10,000,000 is computed from annual rates for the past seven years; an individual can file at most once every 7 years.) Thus, of those citizens who fall below median income at some point in their lives, it is likely that 20% or more file. The other 80% can envision that they would have an unemployment spell, a health care crisis, or other non-strategic reversal that would lead to filing. It is unlikely that the bottom half contains an important constituency that supports making a fresh start more difficult.

The bill, moreover, also featured provisions that made bankruptcy less attractive for small businesses, suggesting that there were grounds for moderate Republicans to vote against the bill. In fact, an estimated 87% of business filings are by firms with under \$500,000 in assets and 82% are by firms with under \$500,000 in liabilities (Warren and Westbrook, 2000). In practice, Republicans remained loyal to a core constituency of relatively large firms. Amendments favorable to small business introduced by Democrats Jackson-Lee in the House and Kerry and Leahy in the Senate were opposed by the vast majority of Republicans.

If public opinion is concerned with debtors receiving a fresh start when, for non-strategic reasons, they have a financial reversal, there should be an ideological split on the legislation. The “fresh start” is directly beneficial to the relatively poor insolvents but only beneficial, indirectly, as a public good, to the relatively rich solvents. Note, however, that if public opinion tilts toward a view that it is necessary to discipline a minority of profligate, strategic debtors, then the industry bill should attract broad support, without reference to ideology.

Opponents of the bill were relatively weak, in both financial resources and political influence. The bankruptcy bar, which had long maintained linkages to relevant committee players in Democratic controlled Congresses, was no longer welcome at the new Republican congressional table.<sup>10</sup> Moreover, the consumer bankruptcy bar, hardly elite within the legal profession, was particularly unlikely to have much organizational or financial clout to oppose the bill.

It is reasonable to assume, therefore, that the consumer credit industry had far greater resources to make contributions than did opponents of the bill. With good access within Congress, the industry may also have had proposal power, making the bill content endogenous from its perspective. On the other hand, given potential opposition within Congress, the industry's ideal bill would be very likely to fail.<sup>11</sup>

The industry has two tactical levers to pass a bill. One is to increase the probability of passage by proposing a more moderate bill than its ideal. The other is to change votes via campaign contributions. The credit card coalition could use its overwhelming money advantage to propose a bill closer to its ideal bill than any bill that could be passed in the absence of contributions.

Conditional on the bill proposal, we can then apply the insights from the formal model of Groseclose and Snyder (1996). In their model, the proponents of change, the industry, are first movers, and the defenders of the status quo are second movers in a sequential contributions game. Because the bill might fail were there no contributions, the industry is motivated to make contributions. Because the opponents have relatively few potential resources, the industry does not need to contribute to everyone. Contributions should occur in the middle of the ideological distribution, with extreme liberals, whose votes are too expensive, getting nothing, and extreme conservatives, who the opponents would find it difficult to buy, also getting nothing. Among

those receiving contributions, the amount of the contribution should be negatively correlated with conservatism. The reason for this is that the first mover pursues a strategy that makes it impossible for the second mover to buy enough votes to defeat the bill. Such a strategy involves “leveling” where each recipient has equal total utility, expressed as the utility of money plus the utility differential of the bill and the status quo. Moreover, the strategy can readily involve building the very large coalitions expressed in the overwhelming votes for the bill. For the bankruptcy bill, only those liberals receiving no contributions should oppose the bill.<sup>12</sup>

In equilibrium, once the industry pursues its level strategy, the defenders of the status quo, knowing they are losers, make no contributions. This is what we have found. In our own perusal of the Federal Election Commission web site and in personal communications with experts, we found no evidence of substantial contributions in opposition to the bill. In contrast, we did not find evidence that pointed to a level strategy. More on this later.

### C. Models of Legislative Politics

Other important theoretical issues, in addition to vote-buying models, are addressed by this essay. There appear to be three major modeling strategies in the analysis of legislative processes. One is to combine the spatial (ideological) model of voting with models of agenda control, starting with Denzau and Mackay (1983) and continuing through Krehbiel’s *Pivotal Politics* (1998). These approaches present an inherently “ideological” approach to Congress. The other is the bargaining literature initiated by Baron and Ferejohn (1989). The thrust here is mainly on “divide the dollar” or pork barrel politics. A third strategy is concerned with the implications for instability brought about by multiple dimensions (Riker, 1980). In particular, we have the “killer amendment” literature. Two recent contributions, with literature references, are Gilmour (2001) and Jenkins (2001).

Our case study shows it pays to work on all three fronts. Floor voting is ideological. Substantial agenda control was exercised in the House. In both chambers, Republican sponsored bills did not pass with narrow margins but had the potential to resist vetoes or filibusters. At the same time, the Senate Judiciary committee clearly bargained over, and avoided voting on, sensitive side issues, such as bankruptcies by abortion clinic bombers, that could destabilize the bill. The exemption amendment voted in the Senate had the potential, if not to kill Senate passage, to possibly derail the conference report. The abortion issue retains killer potential in the House, even after being addressed in conference. Most studies of killer amendments have focused on voting sequences, *intra-camera*. We suggest that bicameral investigations are in order.

#### D. The Empirical Study

We turn from theory to an empirical investigation of roll call voting that emphasizes the interaction of ideology, campaign contributions, and ideology in the construction of the large majorities for “reform”.

In the last 20 years, congressional voting has largely been a matter of liberal-conservative “ideology”, with a single spatial dimension correctly classifying over 90% of the individual roll call choices (Poole and Rosenthal, 1997, 2001; McCarty, Poole, and Rosenthal, 1997, 2001). That is, almost all issues map onto a given dimension. A given roll call has a cutpoint on the dimension that separates “Yeas” from “Nays”. Thus, it is important to ask if campaign contributions and other factors generate votes that are distinct from a simple liberal-conservative split. (Of course, contributions might be very important to determining the cutpoint, an effect we cannot identify.)

We are agnostic about the meaning of the dimension. It undoubtedly blends the personal ideology of the legislator, constituency interests, party pressures, and other factors (Levitt, 1996).

All that matters is that members of Congress tend to line up in the same way on votes, regardless of the issue content of the vote. Our investigation simply asks whether bankruptcy votes are distinctive in relation to the major ideological conflict that persistently divides Congress. We find that bankruptcy votes are largely a matter of normal ideological voting. Our measure of ideology is the W-NOMINATE scores of Poole and Rosenthal. The scores range from -1 (Liberal) to +1 (Conservative).

After controlling for ideology, we find that campaign contributions are significantly correlated with voting. To a degree, money distorts voting from its normal pattern. The impact of money was substantial. A moderate Democrat receiving \$30,000 from the credit card coalition would have an 80% chance of supporting the House bill as against only a 30% chance if the representative had received no money.

What else? Legislators in close contests for reelection might be expected to be more sensitive to pressures from the credit card industry. We therefore included a standard measure of electoral margin. This was not significant so we omit it from the results. We do include credit card filings per capita in the judicial district of a representative's constituency. The effect of filings is theoretically ambiguous. On the one hand, numerous bankruptcies might create more pressure from locally based consumer finance companies and retailers. After all, it is the rapid growth in personal bankruptcies that undoubtedly galvanized creditors to seek a change in the law. On the other, numerous bankruptcies might create active consumer interests and an active bankruptcy bar. We find that the volume of filings has a modest positive effect on voting in favor of the bill. Other constituency characteristics, such as income, race, and education might have influenced voting on the bill. But we would expect their effects to be expressed through filings and ideology. Consequently, in the interests of having a parsimonious model, we deliberately did not include any of the usual demographics.

Legislation, however, may reflect not just the ideology of legislators and the pressures of interest groups but also the institutional structure of Congress. In particular, committees structure the bills that appear on the floor. If committees do have substantial power over legislation, it can be expected that selection processes will operate to match legislators with committees (Shepsle, 1978, Thompson, 2001). Committee members will be “preference outliers”.<sup>13</sup>

If committee members are indeed outliers, committee membership may proxy for important aspects of preferences that are not captured by our other variables. Poole and Rosenthal (1997) found that minority members of a committee are more likely to support a bill in their committee’s jurisdiction than are other members of the minority party.<sup>14</sup> These findings and “capture” theory would lead to an expectation that Democratic committee members would be more likely to support “reform”.

Two committees, Financial Services (Banking in the Senate) and Judiciary, however, had jurisdiction over the bankruptcy bill.<sup>15</sup> The votes of Democratic members of the banking committees do not contradict expectations; committee members were somewhat more likely to support the bill, *ceteris paribus*, than non-members. In contrast, Judiciary committee members were preference outliers in the opposite direction. They were significantly less likely to support the bill. Battaglini (2002) has recently shown how multiple jurisdictions can curb the informational advantages of committees. We see this happening on the bankruptcy bill in the sense that having pro-creditor Democrats stacked on one committee and pro-consumers stacked on another can serve to provide distinct reports to floor voters.

We begin the analysis by a consideration of voting in the House of Representatives, first focusing on the votes of returning Democrat incumbents and then adding in freshmen and Republicans. We next turn to the Senate, where an additional “dimension” was introduced on

the floor. This dimension is represented by a provision that undercut state control of homestead exemptions and imposed a maximum national exemption level of \$125,000 on all states.<sup>16</sup> We follow our analysis of floor voting by briefly considering committee voting on the bill. Finally, we conclude.

## **II. The House Bill**

### A. Voting on Passage

The Bankruptcy Reform Bill of 2001 passed the House on March 1 as H.R.333. In our analysis of the House vote, we examined individual and PAC campaign contribution data from both the National Consumer Bankruptcy Coalition and from finance and credit organizations as compiled by the Center for Responsive Politics.<sup>17</sup> The coalition was a self-defined voluntary group that formed as early as 1997 in opposition to the National Consumer Bankruptcy Review Commission's recommendations.<sup>18</sup> The coalition's nine members were, in order of their total contributions, the American Bankers Association, Credit Union National Association, America's Community Bankers, Independent Bankers Association, Visa USA, National Retail Federation, American Financial Services Association, MasterCard International, and Consumer Bankers Association. (The coalition did not operate its own PAC.) The Center for Responsive Politics listed total 2000 cycle NCBC contributions, including soft money, as \$5.11 million. Contributions from finance and credit card companies not in the coalition totaled \$9.17 million, of which \$3.54 million was attributed to MBNA America Bank. American Express was a distant second with \$0.83 million. The bulk of contributions by finance and credit organizations went to soft money and presidential candidates. In House races, NCBC members gave nearly twice as much as these other financial services companies. (See Table A2.) In our data analysis, we found that only the credit card coalition contributions were significant and those from finance

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and credit card companies were not. This result is not surprising on two counts. First, coalition membership marked a specific expression of interest in the “reform” legislation. (In 2002, the coalition has engaged in a public advertising campaign.) Second, coalition members, compared to non-members, concentrated their contributions on individual House races.

We also investigated whether relative rather than absolute contributions were important. That is, we looked at coalition contributions as a fraction of total contributions received by the legislator. This was not significant. That absolute rather than relative contributions matter suggests contributions were aimed more at votes than at access since access, but not votes, is subject to a time-budget constraint. To conserve space, we do not report the results for relative contributions. Thus, our only contributions variable is CONT, total contributions from NCBC members.

While there was little campaign spending from opponents of the bill, opponents as well as proponents spent additional resources in lobbying activities. With both this effect and the difficulty of differentiating bankruptcy from other issues of concern to financial services companies, we view CONT as representing a proxy for the relative effort spent to influence a representative’s vote rather than as leading to a dollar estimate of a spot market purchase of a vote.

The literature that relates roll call votes to campaign spending (see Chappell, 1982, Kau, Keenan, and Rubin, 1982, Stratmann, 1995, and Romano 1997) has a concern with using campaign contributions as an exogenous regressor. A standard fix is to run a probit-tobit model with cross-equation error correlation. But the results in Stratmann (1995) suggest that the correlations are typically sufficiently low that the consistency-efficiency tradeoff does not tilt in favor of a simultaneous approach. A priori, for our study, we believe this correlation to be small.<sup>19</sup> It is implausible for our sample of Democrats that contributions are directed to

individuals who would have supported the legislation on the basis of preferences not captured by ideology and other variables in the vote equation. If contributions are not to buy votes, than they are to buy access. But, access contributions by no means go only to supporters, as indicated in the discussion of Representative LaFalce below. Private reports to us support a claim that contributions went to influence votes and not just access. Several Democrats were said to be unwilling to incur the wrath of the credit industry even when they recognized that the bill was against the interests of their constituents.

NCBC contributions to voting House members ranged from zero (to 15 Democrats and 11 Republicans) to over \$30,000 to Republicans Spencer Bachus, Pete Sessions and Marge Roukema and to Democrat John J. LaFalce.<sup>20</sup> Roukema and Bachus were the second and fifth ranking majority members, respectively, and LaFalce the ranking minority member of the Financial Services committee. The maximum contribution to a freshman, \$26,648, went to Republican Michael J. Rogers.<sup>21</sup>

Although LaFalce received \$6,000 more than any other member, he voted against the bill.<sup>22</sup> We present results with and without this outlier. CONT is expressed in thousands of dollars.

We used data on the number of bankruptcy filings per household (FILE) in 2000 in the judicial district that contained the congressional district.<sup>23</sup> To have a predetermined measure of ideology, we used the W-NOMINATE (WNOM) estimates for the 106<sup>th</sup> Congress (1999-2000). The sample was thus limited to returning Democratic House members.<sup>24</sup> The dummy variable BCOM captures membership on the Financial Services (Banking) Committee, the variable JCOM, membership on Judiciary.

To analyze the House vote, we estimated a standard logit model for Democrats only.<sup>25</sup> Logit was used because the linear probability estimates generated many estimated values outside

the [0,1] interval. Only Democrats were considered because Republicans would be perfectly classified by a party dummy since they all voted for the bill.

The results for various specifications are shown in table 1. Overall classifications for the models are reasonable, ranging from 79.1% to 83.5%, on a vote where only 55% of the 188 returning, voting Democrats opposed the bill.

In column (1) of table 1, we present results with WNOM, CONT, FILE, BCOM, and JCOM. We also include the interaction BCOM×CONT. We do not include JCOM×CONT because returning Judiciary committee members are perfectly classified when this variable is included. The only Democratic Judiciary committee member who voted for the bill, Boucher of Virginia, received more NCBC money than any other Democratic committee member.

The most robust results of our analysis pertain to WNOM, CONT, and JCOM. In not only column (1) but also the other specifications, WNOM, CONT, and JCOM are highly significant. Liberals were much more likely to oppose the bill. The 15 leftmost representatives voted against the bill. Those receiving credit card coalition money were more likely to favor the bill. Judiciary committee members were very likely to oppose the bill.

Two explanations can be conjectured for this last result. One is that Democrats concerned with civil liberties select onto the committee and that concern with debtors' rights correlates with concern with civil liberties. The other is that Democrats on the committee represent the residual of the long run honeymoon between members of the bankruptcy bar and Congress described by Skeel (2001). For the House as a whole, the special relationship ended when the Republicans took control in 1994, but Judiciary committee Democrats, likely to have been the core of the special relationship, may have remained sensitive to the pro-consumer bar and to consumer activists. Democrats on the Judiciary committee are preference outliers but opposed to the position of the credit industry.

The story for banking committee members is more complex. The strongest case for the importance of the Financial Services committee comes from column (2), where FILE, insignificant in column (1), has been dropped. Banking members were more likely to favor the bill, but BCOM was significant only at the 0.05 level. Moreover, the interaction term is significantly negative. The total effect of money for banking committee members ( $\text{CONT} + \text{BCOM} \times \text{CONT}$ ) is very slightly negative and not significantly different from zero.

The banking committee results support the findings of Kroszner and Stratmann (1998) that the financial services industry spot buys votes of non-committee members but develops long-term relationships with some, but not all, members of the banking committee. Moreover, without the LaFalce outlier, as shown in columns (3) and (4), the banking committee variables are not significant. Consequently, there is not strong evidence from the passage vote that Democrats on the banking committee were “captured” by creditors.

Finally, when the banking committee variables are removed, in column (5), FILE has a positive effect that is significant at the standard 0.05 level. High rates of personal bankruptcy failures may have triggered creditor pressures at the constituency level.

### B. The Impact of Money

To interpret the impact of money on the vote, we used the estimates in columns (2) and (5) of Table 1 to calculate the predicted probability of voting for the bill for each representative. We then summed these probabilities to get the expected vote for the bill among the Democrats. In the actual vote, 85 of the 188 Democratic returnees voted for the bill. Using column (2), the sum of the probabilities, which include the effect of CONT, yielded 85.01 votes; using column (5), 84.00. We next carried out the same computation, assuming that all representatives had received no NCBC contributions. This yielded substantially fewer votes for the bill, 72.98 in the case of column (2) and 66.38 in the case of column (5). The marginal difference that money

made on the vote can thus be said to be somewhere on the order of 11 to 19 votes. Since 290 votes would be required to override a veto, subtracting 11 to 19 votes from the 306 cast for the bill would have put a veto proof majority in question.

We also examined the votes of freshmen Democrats. We assigned each of them an ideological score equal to the average WNOM score for returning Democrats. Their votes were then predicted both using the actual contributions they received and using the assumption that they received no money. Coefficient values of the original Democratic logit regressions were used.

Surprisingly 8 of the 12 freshman Democrats voting on the bill voted for it, a higher fraction than the 85 of 188 returnee Democrats voting. This result is surprising since freshmen Democrats, given recent trends to polarization (McCarty, Poole, and Rosenthal, 1997), have typically proven to be more liberal than returnees in recent years. Moreover, the freshmen had relatively low values on CONT, averaging only \$5002 in contributions. The largest amount received, \$11,499, was less than that received by 43 of the 188 returnee voters. Indeed, the model estimated for returnees substantially underpredicted the number of freshmen voting for the bill. The money predictions using CONT were 4.65 votes using column (2) estimate and 4.48 using column (5).

The discrepancy is consistent with CONT in the returnee equations serving as only a proxy for spot purchases of votes. The actual payoff to returnees may have been for votes on the bankruptcy bill that was pocket vetoed by Clinton. Thus, the freshmen may have voted for the 2001 bill in expectation of contributions for the 2002 election cycle.<sup>26</sup>

We further applied the logit results for the returnee Democrats to Republicans in order to determine the effect of money on the voting probability over the entire span of WNOM scores. For the 30 freshmen Republicans, we used the average returnee Republican WNOM value.

In figure 1, we have graphed the predicted probabilities versus the WNOM values for the column (5) regression, with and without money. A figure for column (2) would be similar. In the figure, there are two points, with and without money, for every House member who voted on the bill. The points for returning Democrats represent within sample predictions. The points for freshmen Democrats and all Republicans represent out-of-sample predictions.

The no money points for representatives who were not members of the Judiciary committee very closely, in almost all cases, follow a familiar positively sloped sigmoid curve which reflects the strong influence of ideology (WNOM). That a smooth curve is not traced out reflects variations in filings (FILE). The influence of Judiciary committee membership can be seen in the visible gap in predicted probabilities between members and non-members for moderate Democrats (scores between 0 and -0.5).

The effect of money is seen by noting that many of the with money points lie well above the no money points. This effect is dramatically illustrated by Judiciary Committee member Boucher (D-VA). Although Boucher is a very moderate Democrat, his probability of voting for the bill without money, is estimated at just above 0.2, a reflection of his committee membership. With money, the probability is estimated at just below 0.8. Boucher was the only Democrat on Judiciary to vote for the bill.

Two observations are prompted by the figure. First, money has its biggest impact for WNOM scores between -0.5 and 0. Thus moderate Democrats were most likely to have their votes altered by the inclusion of campaign contributions. This is because they were reasonably close to 0.5 probabilities without money. Second, the returnee Democrat model accurately predicted Republicans. The lowest Republican WNOM score, 0.148, went to Connie Morella of Maryland. Even without money, her predicted probability of voting for the bill exceeded 0.94.

Thus, every Republican would have been predicted correctly from the returnee Democrat models, solely on the basis of ideology.

Because the basic ideological probabilities are so high for Republicans, money, committee membership, and filings all had little impact on their votes. Their money and no money points are barely distinguishable in the figures. A moderate with a WNOM score of 0 and no money had an estimated probability greater than 0.89 of voting for the bill. All the contributions to Republicans captured by CONT can thus be looked at as more of a long-term relationship, perhaps intended to keep “reform” an active part of the congressional agenda, than a spot exchange.

Simulations we conducted show that in fact, from a vote-buying perspective, too much was spent on Republicans. We used the coefficient estimates from columns (1) to (5) of table 1 to forecast the expected vote for the bill under alternative money scenarios. The forecasts were applied to all voting representatives.

Of those voting, Democrats received an average contribution of only \$5871 from the NCBC in contrast to the \$8155 that went to Republicans. If all Republican money and Democrat money had been pooled and allocated equally but only to Democrats, the predicted vote for the bill ranges, depending on the specification, from 338.5 to 341.6 votes, a hefty increase from the actual vote of 305. In contrast, if the party averages had been maintained and the money allocated equally within party, the forecast votes ranged from 299.1 to 302.1. Thus, the simulated vote was not very sensitive to how money was allocated among Democrats, but many more votes might have been obtained by moving all the Republican money to the Democrats.

### C. The Optimal Allocation of Campaign Contributions

We compared these forecasts from equal allocations of money to forecasts computed from optimizing the allocation of contributions by the NCBC. Specifically, we used MATLAB to solve the following optimization problem:

$$\max \sum_i \Pr(\text{Vote}_i(x_i; z_i, \beta))$$

$$\text{subject to: } x_i \geq 0, \sum_i x_i = B$$

where  $i$  indexes the 414 representatives who voted on the bill,  $x_i$  is representative  $i$ 's contribution,  $\beta$  are estimated logit coefficients,  $z_i$  are the representative's values on non-money variables used in the logit,  $\Pr(\text{Vote}_i(\bullet))$  is the probability that the representative votes for the bill, and  $B$  is total actual spending by the NCBC on the 414 representatives.

The maximization problem can be solved simply given that the objective function is a sum of probabilities and that the rate of change of the probability is decreasing in the difference between the probability and 0.5. To save computing time, we made allocations in \$300 increments. We simply started with all representatives getting zero money. We computed the voting probabilities and gave the first dollar to the representative whose probability had the greatest change in probability at the margin. After recomputing that representative's probability, we allocated the next dollar, and so on, until the budget was exhausted.

How many votes would have been won if the money had been reallocated, assuming the regression models were "truth"?

Optimal allocation predicts 351.5 to 359.3 votes across the five models shown in table 1. This improves substantially on equal allocation (see above), even when all the money is allocated solely to Democrats. The difference, of about 18 votes, perhaps measures the agenda value of showering contributions on key players, such as LaFalce, even if they vote against the bill. Similarly, the value of currying favor with Republicans is suggested by the fact that predicted votes fall into the range 314.1 to 322.2 when money is allocated optimally subject to

the additional constraint that actual party totals should be respected. These totals are very close to the forecast vote had the NCBC been able to allocate only \$1 million optimally instead of its actual spending of \$3 million on members of the 107<sup>th</sup> House. In other words, good overall relations with Republicans are worth about \$2 million in individual vote buying.

The results of our simulation are portrayed in figure 2, which show the optimal allocations to those actually voting on passage as a function of WNOM both when there is no constraint on how the total expenditure is allocated and when the allocations must respect the party totals. The unconstrained optimal allocation gives no money to all Republicans, to the 6 rightmost Democrats and to the 38 leftmost Democrats. Within those Democrats who receive money, liberals get the most. That the points form a small cloud rather than a strict declining function reflects the other variables in the model.

When allocation totals cannot be changed across parties, giving to Democrats becomes more constricted. The 75 leftmost and 14 rightmost Democrats get no money. The money to Republicans now follows a declining pattern where conservatives get the least money. Tom DeLay and the six representatives to his right get no money. There are two clouds. The top cloud is for House members of the Judiciary committee, who, according to the estimated model, require greater bribes.

The patterns produced for optimal allocation, where the biggest bribes go to liberals, match the pattern expected from the Groseclose-Snyder model. Empirical evidence, however, is not consistent with this pattern.

The simulations, in summary, indicate that, within party, the actual contributions did not improve much on an equal distribution of money. On the other hand, if money were just used to spot buy votes, Republicans got far too much money. This does not mean that the NCBC was spending money ineffectively. The credit card coalition needed large contributions to

Republicans to get priority for the bill on the congressional agenda. The priority issue was especially important in Congresses prior to the 107<sup>th</sup> when the then Chairman of the House Judiciary Committee, Henry Hyde, was, out of character, against “reform”.<sup>27</sup> The credit card interests furthermore benefit from contributions to Republicans indirectly by electing ideologically simpatico members. Had the credit card coalition contributed solely to Democrats, there would be no bill. Given the narrow focus on spot purchasing inherent in the logit model, our quantitative analysis is likely to underestimate the influence of money.

#### D. Who Got Money?

Similarly, an auxiliary regression analysis we performed showed sharp distinctions in how NCBC money was allocated between Democrats and Republicans. In table 2, we show separate regressions for returning Republicans and Democrats who voted on passage. The results for Democrats are shown with and without LaFalce. The results are robust to alternative definitions of the sample. The results can be summarized as follows:

1. Ideology has only a weak relationship to contributions for Democrats.<sup>28</sup> It is estimated that the most money (in column (2)) goes to a member with a WNOM score of  $-.144$ , a position among the most moderate Democrats. Extreme liberals get relatively little money, but otherwise the relationship is fairly flat, not too far a departure from a Groseclose-Snyder level strategy. In contrast, among Republicans, contributions are strongly linked to ideology, with conservatives getting much more. The pattern for Republicans is more consistent with obtaining agenda rights for a bankruptcy bill and not at all consistent with the Groseclose-Snyder model.
2. Banking committee members get more money than other representatives, consistent with the credit card groups pursuing a long-term relationship with committee members.

3. In contrast, Judiciary committee membership has an insignificant relationship to contribution. Even though the Judiciary committee has primary jurisdiction for bankruptcy, it does not handle enough credit card issues to merit special long-run attention.
4. The effect of margin is as expected for both parties. Members in close races, especially Democrats, get more funds. Note that while margin did not have a direct effect on roll call voting, it does have an indirect effect through contributions.
5. Overall, the fit of the money regressions is low, particularly for Republicans. The central fact concerning campaign contributions is that Republicans got more money. Within party, the role of ideology, committee memberships, and margin could be important, but most of the variation in aggregate NCBC contributions is not accounted for by the regressions.

To summarize our results for campaign contributions, campaign contributions made to Democrats appears linked to how they voted on the bill. The major use of contributions by the credit card coalition, however, was to maintain good relations with Republicans. The contributions to Republicans, especially the most conservative among them, reflect the major way in which the actual allocation of money deviated from an optimal spot purchase allocation in the spirit of Groseclose and Snyder.

#### E. Voting Reconsidered: An Ordered Logit Approach

The Republican majority rushed the bankruptcy bill through the House with little allowance for amendment voting. The only amendment to draw a recorded roll call was one by Democrat Jackson-Lee that “sought to modify the means test to allow additional expenses including health insurance premiums, other medical expenses, and the costs relating to the care of foster children; and extend the deadline for filing and confirmation of reorganization plans by small businesses.”<sup>29</sup> This lost 160-258 and was followed by a motion to recommit that lost 165-

253. These two votes showed that, despite the overwhelming majorities for passage, there was considerable sentiment for a more “little guy friendly” bill.

Since the two votes were quite similar, we analyze only the votes of returning members on the motion to recommit and on passage. Those most pro-consumer would have voted against the bill and to recommit. Moderates would have voted for the bill and to recommit. The least pro-consumer would have voted for the bill and against recommital. There were six representatives who voted both against the bill and against recommital. We exclude them from the analysis. On the other hand, we can now include Republicans, since several Republicans voted to recommit. The fact that there was Republican support to recommit provides support for our speculation, in the introduction, that substantial contributions were necessary to pass the bill even if those opposed had few resources with which to counter. For our analysis, we used ordered logit estimation.

The substance of the results is largely consistent with the results presented in Table 1. Moreover, the results are now robust to the inclusion or exclusion of LaFalce and to whether we run the entire sample or just Democrats. Because the results are robust to specification, we present, in Table 3, only the results that include the same variables as column (1) of Table 1. To understand the robustness of the results, recall that logit estimation posits that the observed choices reflect an unobserved continuous variable. The vote to recommit provides us with more information about this continuum. The ordered logit correctly classifies 70.1% of the observations. By comparison, the modal category, voting for passage and against recommital, has only 55.1% of the cases. Only 1.2% of the cases are misclassified by two categories (for-against predicted against-for and vice-versa).

The results of the ordered logit resemble those for columns (1) and (2) of table 1. In particular, the results show that money is significant only for representatives who are not on the

Financial Services committee. (The sum of the CONT and interaction coefficients is  $-.042$  and not significant.) This might be reconciled with the Kroszner-Strattman view of spot buying off the committee and long-term relationship on the committee if we regard the contributions from the past election cycle as a relatively noisy indicator of the long-term relationship. Overall, Financial Services committee members are likely to be anti-consumer and Judiciary committee members pro-consumer. Filings are two-tail significant only at the 0.1 level. Increased filings increase pro-creditor support.

### **III. Voting in the Senate**

Senate bill S. 420, passed on March 15, 2001, differed from the House bill by imposing a \$125,000 federal cap on homestead exemptions. This provision was presumably most objectionable to senators from the states with unlimited homestead exemptions, Kansas, Oklahoma, Texas, South Dakota, Florida, and Iowa.<sup>30,31</sup> Unlike the House, where Republicans supported their bill unanimously, two Republicans dissented in the Senate. Both of these, Brownback of Kansas and Hutchinson of Texas, were from unlimited exemption states. Two exemption state Democrats, Harkin of Iowa and Nelson of Florida also voted against the bill. The bill was supported only 10-4 in exemption states, but 73-11 in the rest of the country. The difference suggests that the cap on exemptions was a slap at the wealthy sufficient to generate support from Democrats. Another reason for the bill getting more support from Democrats is that the Senate Judiciary committee had amended the bill to include provisions on bankruptcies by perpetrators of violence against abortion clinics, on consumer privacy, and on the rights of bankrupt tenants (see below). Whereas the House Judiciary committee meeting had been highly confrontational and no amendments were adopted, the Senate committee had forged bipartisan compromises.<sup>32</sup> Moreover, two additional amendments introduced by Democrats were approved

on the floor of the Senate. Overall, the bill got 87% of the Senate votes as against only 74% in the House.

Thus, the Republican/industry House bill received a more bipartisan midcourse correction in the Senate. The correction occurred, arguably, because the Republicans had only split control of the Senate. Moreover, as a result of staggered six-year terms, two-thirds of the Senate does not need to solicit contributions for the 2002 elections. This results in, speculatively, less leverage for the credit card coalition.

#### A. Voting on Passage and Exemptions

We begin our analysis by reporting two logit analyses, one for final passage and the other for the Kohl amendment that capped state exemptions at \$125,000. The Kohl amendment passed 60-39. The final passage vote was 83-15

As with the House vote, we ran specifications with JCOM, BCOM, CONT, WNOM, and FILE variables. We made some changes in the specifications:

- FILE is measured at the state level.
- Since the Senate provides far fewer data points than the House we included the Senate freshmen in the regression to increase the sample size. Keith T. Poole published on his web site ([voteview.uh.edu](http://voteview.uh.edu)) a liberal-conservative rank order of the 107<sup>th</sup> Senate based on the first 57 roll calls. The rank order was computed by his non-parametric method (Poole, 2000), which is more appropriate than W-NOMINATE for a small sample of roll calls. From this ranking, we found the returning members directly to the right and left of each freshman. For the freshmen, WNOM was then computed as the average of the 106<sup>th</sup> Congress WNOM scores for the two flanking returnees. Unfortunately, the 21 bankruptcy votes described in table 5 are among the first 57 roll calls. To check whether our results were sensitive to how we treated freshmen, we reran the models without freshmen. The results were essentially

unchanged except that the coefficients were not identified for the model represented by column (2) in table 4. (See table 6 for other results with and without freshmen.)

- Because senators running in the 2000 elections would have a higher need for funds than those not up for reelection, we considered specifications with both a dummy for those senators (including freshmen) who ran in 2000 and the interaction of the dummy with the contribution variable, CONT. These variables did not improve the specification; we do not report the results here.
- We also included a variable called AVEPRED which is the average predicted probability of a yes vote on final passage (from model (5)) by the House members of the senator's home state.<sup>33</sup> Note that, since the House acted first, AVEPRED was predetermined relative to the Senate vote. This variable, like FILE, was meant to test for state specific effects. House freshmen (again using returnee averages) were entered into this average in order to make sure that smaller states with few or no returning House members would have a value on this variable.
- EXEM is a dummy variable coded 1 for senators from the six unlimited exemption states. If senators are responsive to economic interests in their states who seek to maintain the state's legislation, the sign of EXEM should be positive in voting against the Kohl amendment and negative in voting for final passage.<sup>34</sup>
- WNOM is included as before. Its sign should be positive in voting for passage. Evidence presented by Gropp, Scholz, and White (1997) suggests that its sign should also be positive in voting against the Kohl amendment. On the one hand, these authors show that credit applications are more likely to be rejected in high exemption states. However, consumers with high asset levels bear this consequence about as much as those with low asset levels. Thus, there would not seem to be a strong motivation for liberals and conservatives to

separate on the basis of this first observation. More telling is a second finding of the authors that consumers with low asset levels pay sharply higher interest rates on car loans in unlimited exemption states than in a base case but consumers with high asset levels actually pay slightly lower interest rates. Thus, on redistributive grounds, conservatives should oppose ending unlimited exemptions. The sign might also be expected to be positive if conservatives are voting against the Kohl amendment to prevent the defeat of the bill as a whole.

- We also included the interaction  $WNOM*EXEM$ . Its sign is ambiguous.

Possibly because there are fewer than 100 observations in the Senate, the only variables that proved significant in either the Kohl or passage regressions were ideology, exemptions, the interaction, and  $AVEPRED$ . The results appear in Table 4. They should be viewed with caution since the 44 most conservative senators from non-exemption states are perfectly classified on passage when the interaction of  $WNOM$  and  $EXEM$  is included. However, this problem disappears when we remove it and substitute  $AVEPRED$  although the fit deteriorates substantially. The problem also disappears (results not shown), when just  $WNOM$  and  $EXEM$  are used. Similarly, the coefficients become more sensible in the exemption regression when the interaction is dropped and  $AVEPRED$  is used.

The combination of ideology and exemption levels provides a good fit to the Kohl amendment vote, correctly classifying 82 of the 99 senators voting when only 59 voted for the amendment. The improvement is less dramatic for the lopsided passage vote, with 88 senators correctly classified.

The results show that conservatives supported the bill and rejected the Kohl amendment. Unmeasured statewide interests proxied in  $AVEPRED$  also appear to have influenced the votes. The effect is positive, as expected. The effect of exemptions is positive on Kohl and negative on

passage, as expected. In addition, the interaction has a significant negative effect on voting for passage. Conservatives were especially likely to respond to exemption state pressures.<sup>35</sup>

### B. Creditors versus Debtors: Amendment Voting

The Senate voted on the bill 20 times before finally voting passage. The sequence of votes is shown in Table 5. The vote splits shown in the table are coded so that the first number is the position supported by a majority of Republicans. Of the 19 votes other than the Kohl amendment vote, two, on Social Security and Medicare “lockboxes”, were position-taking votes in the larger national debate on taxes and the budget. Another two amendments, by Leahy on minors and Feingold on foreign judgments, had overwhelming support. The remaining amendment votes appear to tap the consumer-creditor fight. These were the 14 votes numbered 16-21, 24-28, and 32-34. We followed a procedure developed by Kalt and Zupan (1984) and computed the proportion of the 14 votes cast on the creditor side by each senator. Since no senator abstained on more than two of the amendments, we simply computed the average over the votes actually cast. We then, for ease of interpretation, ran OLS on the proportion.

When we regressed the procreditor index on both WNOM and its square, we found that 90% of the variation was explained by this regression, which captures a strictly increasing relationship between conservative ideology and the index. The results of this quadratic regression appear in Table 6. It is not surprising, given this good fit, that none of the other variables we collected were significant in any of our specifications. The result accords with the results of Poole and Rosenthal (2001), who show that roll call voting has become increasingly ideological in recent years. Basically, the 14 votes we used are a reasonable sample for providing a rough-cut measure of ideology, hence the high  $R^2$ . Some amendments were concerned with small business, others with credit cards aimed a minors, others with married couples. While we might have found other regressors to be significant on specific amendments,

ideology was pervasive across all amendments. Similarly, if some amendments were directed at softening the new standards sought by the credit card coalition, none would have really threatened the bill's major objective. It is not surprising that contributions were not significantly related to the index.

#### **IV. Committee Action**

Our results indicate important effects for campaign contributions and committee structure in House voting. In contrast, ideology alone appears to be sufficient to account for voting in the Senate, with the noteworthy exception of voting on exemptions. The importance of ideology also is manifest in committee markups.

The House Judiciary Committee sent H.R. 333 to the floor on Feb. 14 after taking 18 roll call markups. Votes on amendments were largely along party lines. Even Boucher, the only Democratic committee member to support the bill on the floor, voted with the party on a large number of "pro-consumer" amendments. Only one Republican, Scarborough of Florida, ever broke ranks. Scarborough broke on a single amendment designed to make filing easier for individuals with income below the poverty level. Of those committee members voting, their final votes on reporting the bill to the full House were perfectly predictive of their floor votes. All Republicans and Boucher voted both to report and for passage; the others voted against. Thus, the committee vote provides no information that is distinct from the floor vote of committee members.

In contrast, the committee vote is not fully predictive of the floor votes of non-members. Although only one of the 30 returning Democrats to the right of Boucher opposed the bill, the bill was supported by eleven of the 72 Democrats to the left of Zoe Lofgren, the rightmost returning Judiciary committee member except for Boucher. Thus Democratic House Judiciary

Committee members were more pro-debtor than non-members.<sup>36</sup> This result has already been shown in the coefficient on JCOM in our logit estimation of the passage vote.

The Senate Judiciary Committee, as a result of the power-sharing arrangement reached at the beginning of the 107<sup>th</sup> Senate, was evenly divided between Republicans and Democrats. On Feb. 27, the committee marked up three “pro-consumer” amendments by Senator Diane Feinstein (D-CA). The first was designed to increase the discretion of judges in permitting Chapter 7 filings. The second was designed to limit credit card issuance to minors. The third was to restrict credit card late payment charges. They were all opposed by the nine Republicans, including Brownback (KS), who did not vote for the bill on the floor. The fact that Brownback voted with his party on these amendments, which did not pertain to exemptions, suggests that the exemption issue added a distinct dimension to the bill. Joe Biden of Delaware, a credit card issuing state, joined the Republicans. On the second amendment, Herb Kohl (WI) also defected from the Democrats.

The Senate committee continued action on the bill on Feb. 28. Two amendments were approved by voice vote after bipartisan compromises. One involved the use of bankruptcy by perpetrators of violence against abortion clinics. The other involved sale of customer information by bankrupt firms. It is interesting that on these items the committee chose to make decisions by bargaining rather than voting. In particular, the abortion issue was likely to introduce a destabilizing dimension. The Republicans might well have sought to avoid a vote that would split the party.

An amendment by Russell Feingold (D-WI) to limit liens on household goods was defeated, again with a Biden defection. Another Feingold amendment, to keep landlords from evicting bankrupt tenants who continued to pay rent, was passed when Arlen Specter (R-PA) defected to the Democrats. Since Specter was the most liberal Republican on the committee,

there was nothing unusual about the passage of the amendment. Finally, the bill was reported to the full Senate, with Biden providing the necessary defection. When the bill did reach the floor, only three committee Democrats, Durbin, Feingold, and Kennedy, voted against. This suggests that floor action, particularly on exemptions, increased the acceptability of the bill to Democrats.

In both the House and the Senate, all the markup splits on the bill followed or came very close to following the liberal-conservative fault lines seen on the floor. In the Senate Judiciary committee, the lone Republican defection, Specter, was the predicted defection given rankings on the Senate floor. The multiple defections from the Democrats of Biden and the single defection of Kohl would not have been predicted, but overall classification using liberal-conservative splits is very high. For the 18 Senate committee members, there are never more than two classification errors on markups. The Senate committee was more than echoed in the House. House voting appears to be even more along party lines in committee than on the floor. Thus, this episode does not seem to be one where markups provide evidence that committees vote along distinct jurisdictional dimensions, as argued by Shepsle and Weingast (1981).

## **V. Conclusion**

We have found striking evidence of the importance of both ideology and interest group interventions in the formation of legislation. While the importance of ideology is generally accepted, it is rare to find such clear evidence of the effects of money (aka interest group pressures). The direct result of approximately 15 House votes changed can be considered the lower bound of the potential effects of money. It is quite possible that pro-creditor contributors offered the credible threat of retaliation in the form of withdrawing financial support or even supporting rival candidates in the future should a member choose to vote against the legislation. If this threat were considered viable, it would suggest that we have underestimated the effect of

money. Money and the threat of future money may have shifted the House and the Senate, as legislative bodies, in a pro-creditor direction.

Much of the effect of money, moreover, may be buried in the regression constants. The constant in the Democratic House logits can be used to calculate the base probability that a politically moderate legislator would vote yes in the absence of committee membership, campaign contributors, and any bankruptcies in her judicial district. That this probability is estimated to be greater than 0.8 in the House perhaps testifies to the power of the creditor lobby.

Money may also be used to influence the agenda as well as to spot purchase votes. Republicans received a disproportionate share of the contributions. Money spent on Republicans in fact represents the major way in which the pattern of contributions deviate from the pattern predicted by the Groseclose-Snyder vote-buying model.

The strong support for the bill may, nonetheless, reflect compromise. The bill, which imposes Chapter 13 only on relatively high-income bankrupts, was not what the creditors had initially proposed. Compromise, as well as money, may have seduced moderate Democrats. The minimal income necessary to even be considered for mandatory chapter 13 is state median income. Since only a small proportion of the individuals who file for bankruptcy are above the threshold<sup>37</sup>, some Democrats may have perceived this bill as having little to no effect on their constituents.

On the other hand, compromise may have had only a modest effect compared to ideology. Many very liberal member of the House, including members of the black caucus, represent poor districts where nearly all constituents could continue to elect Chapter 7. Yet these liberals were the most likely to vote against the bill.

In the Senate, the Democrats may have been more supportive because the bill was further compromised by two amendments. One dealt with anti-abortion protesters. Even though the

language of this amendment was generated by a bipartisan compromise within the Judiciary Committee, it has proved anathema to right-to-lifers in the House. The Kohl amendment doing away with unlimited exemptions was another element of compromise.

The Kohl amendment may have sweetened the bill to those Democrats who wanted to have an impact on wealthy bad boys who park their assets in Florida and Texas. The roll of shame includes former baseball commissioner Bowie Kuhn, financier Paul Bilzerian, health care and real estate magnate, Abe Gosman, former Texas governor and United States Treasury Secretary John Connally, and Burt Reynolds, who needs no introduction.<sup>38</sup> Senator Hatch (R-UT) spoke against the Kohl amendment, claiming, the amendment would “threaten final passage of the bankruptcy bill.”<sup>39</sup> Perhaps Senate Democrats indeed thought there was a good chance the bill would die in conference or be vetoed. After all, Florida and Texas have much more weight in the House than in the Senate, and the president is a Texan. The conference report was weaker on exemptions than the Senate bill. The bill, however, may still be aborted.

## **Appendix**

[Three tables at end of manuscript]

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**Table 1.**  
**House Passage of the Bankruptcy Bill:**  
**Linear Logit Estimates for Returning Democrats**  
**(Robust Standard Errors in Parentheses)**

<b><u>VARIABLE</u></b>	<b><u>WITH LA FALCE</u></b>		<b><u>WITHOUT LA FALCE</u></b>		
	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>
<b>Constant</b>	<b>1.092</b> <b>(0.809)</b>	<b>1.996<sup>†††</sup></b> <b>(0.598)</b>	<b>0.942</b> <b>(0.802)</b>	<b>1.927<sup>†††</sup></b> <b>(0.589)</b>	<b>0.859</b> <b>(0.726)</b>
<b>WNOM</b>	<b>8.101<sup>***</sup></b> <b>(1.416)</b>	<b>8.207<sup>***</sup></b> <b>(1.400)</b>	<b>7.870<sup>***</sup></b> <b>(1.375)</b>	<b>8.031<sup>***</sup></b> <b>(1.369)</b>	<b>7.623<sup>***</sup></b> <b>(1.266)</b>
<b>CONT (\$ '000)</b>	<b>0.163<sup>**</sup></b> <b>(0.055)</b>	<b>0.163<sup>*</sup></b> <b>(0.057)</b>	<b>0.163<sup>**</sup></b> <b>(0.054)</b>	<b>0.152<sup>**</sup></b> <b>(0.056)</b>	<b>0.142<sup>***</sup></b> <b>(.046)</b>
<b>BCOM*CONT</b>	<b>-0.196<sup>†</sup></b> <b>(0.078)</b>	<b>-0.207<sup>††</sup></b> <b>(0.075)</b>	<b>-0.114</b> <b>(0.112)</b>	<b>-0.143</b> <b>(0.098)</b>	
<b>BCOM</b>	<b>2.026</b> <b>(1.070)</b>	<b>2.207<sup>†</sup></b> <b>(0.960)</b>	<b>1.264</b> <b>(1.328)</b>	<b>1.645</b> <b>(1.093)</b>	
<b>JCOM</b>	<b>-2.500<sup>†††</sup></b> <b>(0.660)</b>	<b>-2.462<sup>†††</sup></b> <b>(0.672)</b>	<b>-2.497<sup>†††</sup></b> <b>(0.662)</b>	<b>-2.460<sup>†††</sup></b> <b>(0.674)</b>	<b>-2.397<sup>†††</sup></b> <b>(.663)</b>
<b>FILE</b>	<b>78.159</b> <b>(48.508)</b>	<b>-</b>	<b>84.687</b> <b>(46.529)</b>		<b>95.778<sup>†</sup></b> <b>(39.626)</b>
<b>Log-likelihood</b>	<b>-75.48</b>	<b>-76.33</b>	<b>-74.30</b>	<b>-75.38</b>	<b>-74.97</b>
<b>Pseudo R<sup>2</sup></b>	<b>0.417</b>	<b>0.410</b>	<b>0.423</b>	<b>0.415</b>	<b>.418</b>
<b>% Correctly Classified</b>	<b>81.9</b>	<b>83.5</b>	<b>81.3</b>	<b>82.9</b>	<b>79.7</b>
<b>% Voting Against Passage</b>	<b>50.5</b>	<b>50.5</b>	<b>50.3</b>	<b>50.3</b>	<b>50.3</b>
<b>N</b>	<b>188</b>	<b>188</b>	<b>187</b>	<b>187</b>	<b>187</b>

- \* One-tail significant at 0.05
- \*\* One-tail significant at 0.01
- \*\*\* One-tail significant at 0.001
- † Two-tail significant at 0.05
- †† Two-tail significant at 0.01
- ††† Two-tail significant at 0.001

Table 2.

**NCBC Contributions (CONT) to Returning House Members**

**OLS Estimates for Returning House Members Voting on Passage of the  
Bankruptcy Bill**

(Robust Standard Errors in Parentheses)

<u><i>VARIABLE</i></u>	(1) Republicans	(2) Democrats, without LaFalce	(3) Democrats, with LaFalce
<b>Constant</b>	<b>-7.044</b> (5.491)	<b>8.844<sup>†††</sup></b> (981.3)	<b>8.937<sup>†††</sup></b> (0.989)
<b>WNOM</b>	<b>43.943<sup>†</sup></b> (17.481)	<b>-1.045</b> (3.846)	<b>-2.214</b> (4.018)
<b>WNOM*WNOM</b>	<b>-30.913<sup>†</sup></b> (13.425)	<b>-7.248</b> (4.793)	<b>-8.866</b> (5.118)
<b>BCOM</b>	<b>7.225<sup>***</sup></b> (1.665)	<b>5.844<sup>***</sup></b> (1.193)	<b>6.818<sup>***</sup></b> (1.486)
<b>JCOM</b>	<b>1.277</b> (1.660)	<b>-0.510</b> (1.196)	<b>-0.629</b> (1.228)
<b>MARGIN</b>	<b>-1.963</b> (2.291)	<b>-5.894<sup>***</sup></b> (1.316)	<b>-6.355<sup>***</sup></b> (1.412)
<b>R<sup>2</sup></b>	<b>0.164</b>	<b>.268</b>	<b>0.290</b>

\*\*\* One-tail significant at 0.001

† Two-tail significant at 0.05

††† Two-tail significant at 0.001

**Table 3.**  
**House Voting on Recommit and Passage of the Bankruptcy Bill:**  
**Ordered Logit Estimates for All Members Voting Excluding 6 Members Who Voted**  
**Against Both Recommit and Passage.**  
**(Robust Standard Errors in Parentheses)**

<b>Pro-Creditor Vote Orientation</b>	
<u><i>VARIABLE</i></u>	<b>(1)</b>
<b>Lower Cutpoint</b>	<b>-1.061</b> <b>(0.521)</b>
<b>Upper Cutpoint</b>	<b>1.396</b> <b>(0.524)</b>
<b>WNOM</b>	<b>7.147***</b> <b>(0.851)</b>
<b>CONT</b>	<b>0.158***</b> <b>(0.038)</b>
<b>BCOM*CONT</b>	<b>-0.200<sup>†††</sup></b> <b>(0.061)</b>
<b>BCOM</b>	<b>2.326**</b> <b>(0.924)</b>
<b>JCOM</b>	<b>-1.175<sup>†</sup></b> <b>(0.594)</b>
<b>FILE</b>	<b>55.041</b> <b>(32.364)</b>
<b>Log-likelihood</b>	<b>-136.21</b>
<b>Pseudo R<sup>2</sup></b>	<b>0.609</b>
<b>% Correctly Classified</b>	<b>70.1</b>
<b>% Misclassified by Two Categories</b>	<b>1.2</b>
<b>% in Modal Category</b>	<b>55.1</b>
<b>N</b>	<b>366</b>

- \* One-tail significant at 0.05
- \*\* One-tail significant at 0.01
- \*\*\* One-tail significant at 0.001
- † Two-tail significant at 0.05
- †† Two-tail significant at 0.01
- ††† Two-tail significant at 0.001

**Table 4.**  
**Senate Voting on the Bankruptcy Bill:**  
**Linear Logit Estimates for All Voting Senators**  
**(Robust Standard Errors in Parentheses)**

<b><u>VARIABLE</u></b>	<b><u>Against National Exemptions (Kohl Amendment)</u></b>		<b><u>For Final Passage</u></b>	
	<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
<b>Constant</b>	<b>-5.082<sup>††</sup></b> <b>(2.509)</b>	<b>-2.564<sup>†</sup></b> <b>(1.505)</b>	<b>24.664<sup>†††</sup></b> <b>(6.057)</b>	<b>0.803</b> <b>(0.976)</b>
<b>WNOM</b>	<b>4.810<sup>***</sup></b> <b>(1.523)</b>	<b>5.745<sup>**</sup></b> <b>(2.369)</b>	<b>30.362<sup>***</sup></b> <b>(7.787)</b>	<b>1.901<sup>***</sup></b> <b>(0.681)</b>
<b>EXMP</b>	<b>5.082<sup>*</sup></b> <b>(2.509)</b>	<b>10.202</b> <b>(8.422)</b>	<b>-24.012<sup>***</sup></b> <b>(6.089)</b>	<b>-2.459<sup>*</sup></b> <b>(1.061)</b>
<b>EXMP*WNOM</b>		<b>4.628</b> <b>(10.909)</b>	<b>-29.845<sup>†††</sup></b> <b>(7.825)</b>	<b>*</b>
<b>AVPRED</b>	<b>3.707<sup>*</sup></b> <b>(2.240)</b>			<b>2.698<sup>*</sup></b> <b>(1.267)</b>
<b>Log-likelihood</b>	<b>-23.39</b>	<b>-24.31</b>	<b>-22.49</b>	<b>-30.69</b>
<b>Pseudo R<sup>2</sup></b>	<b>0.648</b>	<b>.634</b>	<b>0.464</b>	<b>.268</b>
<b>Senators Correctly Predicted</b>	<b>83</b>	<b>82</b>	<b>88</b>	<b>87</b>
<b>Senators on Majority Side</b>	<b>59</b>	<b>59</b>	<b>83</b>	<b>83</b>
<b>Number of Senators Voting</b>	<b>99</b>	<b>99</b>	<b>98</b>	<b>98</b>

- \* One-tail significant at 0.05
- \*\* One-tail significant at 0.01
- \*\*\* One-tail significant at 0.001
- † Two-tail significant at 0.05
- †† Two-tail significant at 0.01
- ††† Two-tail significant at 0.001

**Table 5. Senate Roll Calls on the Bankruptcy Bill, S. 420**

<b>Roll Call</b>	<b>Topic</b>	<b>Vote</b> (Pro-creditor vote is first number)
16	Wellstone, Medical Expense Exemption	65-34
17	Leahy, small business creditors priority over larger businesses.	58-41
18	Durbin, predatory lending practices by mortgage companies.	50-49
19	Kerry, strike provisions relating to small businesses.	55-41
20	Feinstein, cap credit cards to minors at \$2500.	55-42
21	Kennedy, remove the dollar limitation on retirement savings protected in bankruptcy.	61-37
22	Conrad, off-budget Social Security and Medicare lockbox.	47-53
23	Sessions, safeguard the surpluses of the Social Security and Medicare	52-48
24	Schumer, predatory loans	44-55
25	Dodd, Truth in lending for consumers under 21	58-41
26	Wyden, nondischargeability of debts arising from the exchange of electric energy.	67-30
27	Durbin, substitute bill	64-35
28	Wellstone, prohibit coercive debt collection practices	58-41
29	Cloture on S. 420	80-19
30	Kohl, state exemptions.	39-60
31	Leahy, protect identities of minor children in bankruptcy proceedings.	99-0
32	Leahy, treatment of spousal income in means testing	43-56
33	Wellstone, timetable for determining current monthly income.	77-22
34	Wellstone, acceptable period of time between the filing of petitions for relief under chapter 12	63-36
35	Feingold, foreign judgments (debts owed to Lloyd's of London).	79-18
36	Passage	83-15

Table 6

**Senate Voting on 14 Amendments to the Bankruptcy Bill:**

**OLS Estimates for 98 Members.  
(Robust Standard Errors in Parentheses)**

<b>PRO-CREDITOR VOTE ORIENTATION</b>		
<i>VARIABLE</i>	(1)—ALL SENATORS	(2)—NO FRESHMEN
Constant	0.790 <sup>†††</sup> (0.035)	0.778 <sup>†††</sup> (0.036)
WNOM	0.504*** (0.017)	0.504*** (0.019)
WNOM <sup>2</sup>	-0.341 <sup>†††</sup> (0.056)	-0.317 <sup>†††</sup> (0.065)
R <sup>2</sup>	0.898	0.899
N	99	88

\*\*\* One-tail significant at 0.001

††† Two-tail significant at 0.001

**Table A1. Summary Statistics for House Democrats Voting on Passage**

<b>Variable*</b>	<b>Observations</b>	<b>Mean</b>	<b>Std. Dev.</b>	<b>Minimum</b>	<b>Maximum</b>
CONT	188	6.036	6.099	0	38.750
FINANCE	188	2.790	5.875	0	37.640
MARGIN	188	0.46	0.26	0	1
FILE	188	0.0113	0.0035	0.0065	0.0233
JFILE	188	0.0111	0.0044	0.0055	0.0389
BCOM	188	0.15	0.36	0	1
BCONT	188	1.686	5.265	0	38.750
JCOM	188	0.08	0.27	0	1
JCONT	188	0.344	1.744	0	17.25
WNOM	188	-0.38	0.24	-0.976	0.274
VOTE	188	0.45	0.50	0	1
RCVOTE	188	0.79	0.41	0	1

Notes to Table A1.

- FINANCE = contributions from financial services PACs other than NCBC members; MARGIN = Voter proportion, 2000 elections – proportion of second place finisher; VOTE = 1, if voted for final passage, = 0 otherwise; RCVOTE =1, if voted to recommit, =0 otherwise. For other variables, see text.

**Table A2. Summary Statistics for House Members**

PARTY	430*	0.51	0.50	0	1
FRESHMAN	432**	0.09	0.29	0	1
BCOM	432	0.16	0.37	0	1
JCOM	432	0.09	0.28	0	1
VOTE	414***	0.74	0.44	0	1
RCVOTE	418****	0.39	0.49	0	1
WNOM	432	0.17	0.58	-0.976	0.993
CONT	432	7.112	6.511	0	3.875
BCONT	432	1.922	5.598	0	38.750
JCONT	432	0.588	2.714	0	30.008
FILE	414	0.0117	0.0047	0.0055	0.0465
MARGIN	412*****	0.39	0.25	0	1
FINANCE	432	3.611	6.738	0	59.000

Notes to table A2.

\* All members except two vacancies, Speaker Hastert, and independents Goode and Sanders.

\*\* All members except two vacancies and Speaker Hastert

\*\*\* All voting on passage.

\*\*\*\* All voting on the motion to recommit.

\*\*\*\*\* All voting on passage except independents Goode and Sanders.

\*\*\*\*\* Variable definitions. PARTY = 1 if Republican, 0 if Democrat. For other variables, see notes to table A1.

**Table A3. Summary Statistics for the Senate**

<b>Variable*</b>	<b>Observations**</b>	<b>Mean</b>	<b>Std.Dev.</b>	<b>Minimum</b>	<b>Maximum</b>
PARTY	100	0.50	0.50	0.00	1
FRESHMAN	100	0.11	0.31	0.00	1
JCOM	100	0.19	0.39	0.00	1
VOTE	98	0.85	0.36	0.00	1
EXEMVOTE	99	0.39	0.49	0.00	1
WNOM	100	-0.04	0.71	-0.99	0.948
PROCREDITOR	99	0.59	0.40	0.00	1
CONT	100	6745.89	8947.68	0.00	32314
JCONT	100	1212.00	4626.53	0.00	27750
EXEM	100	0.12	0.33	0.00	1
EXEM*WNOM	100	0.02	0.27	-0.92	0.948
FILE	100	0.02	0.01	0.01	0.1
AVEPRED	100	0.78	0.21	0.06	0.9999
OPTOUT	100	0.74	0.44	0.00	1
OVER	100	14200	27713.54	0.00	75000
LEVEL	100	69792	71824.77	0.00	200000
OPTOVER	100	10200	24781.06	0.00	75000

Notes to Table A2.

\* PARTY=1 if Republican, 0 otherwise; FRESHMAN=1 if first term, 0 otherwise; VOTE=1 if voted for final passage of Senate bill, 0 otherwise; EXEMVOTE=1 if voted against Kohl amendment, 0 otherwise, PROCREDITOR is dependent variable in Table 6, defined in text. For all other variables, see text.

\*\* Voting variables have fewer than 100 observations as the result of abstentions.

**Figure 1**  
**Predicted Probabilities of Voting for the House Bankruptcy Bill**  
(There are two points for each representative. One point shows the prediction from the model; the other the predicted probability if the representative had received no NCBC money.)

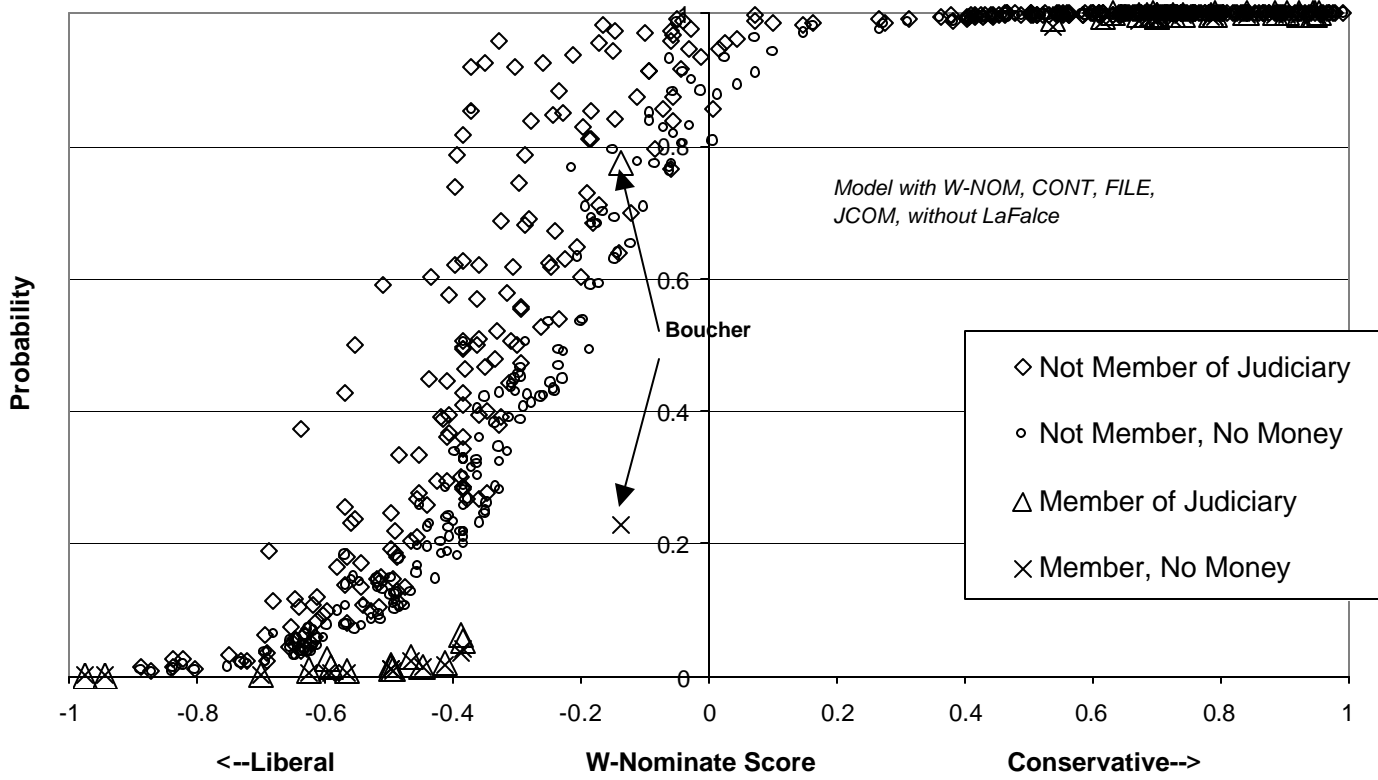
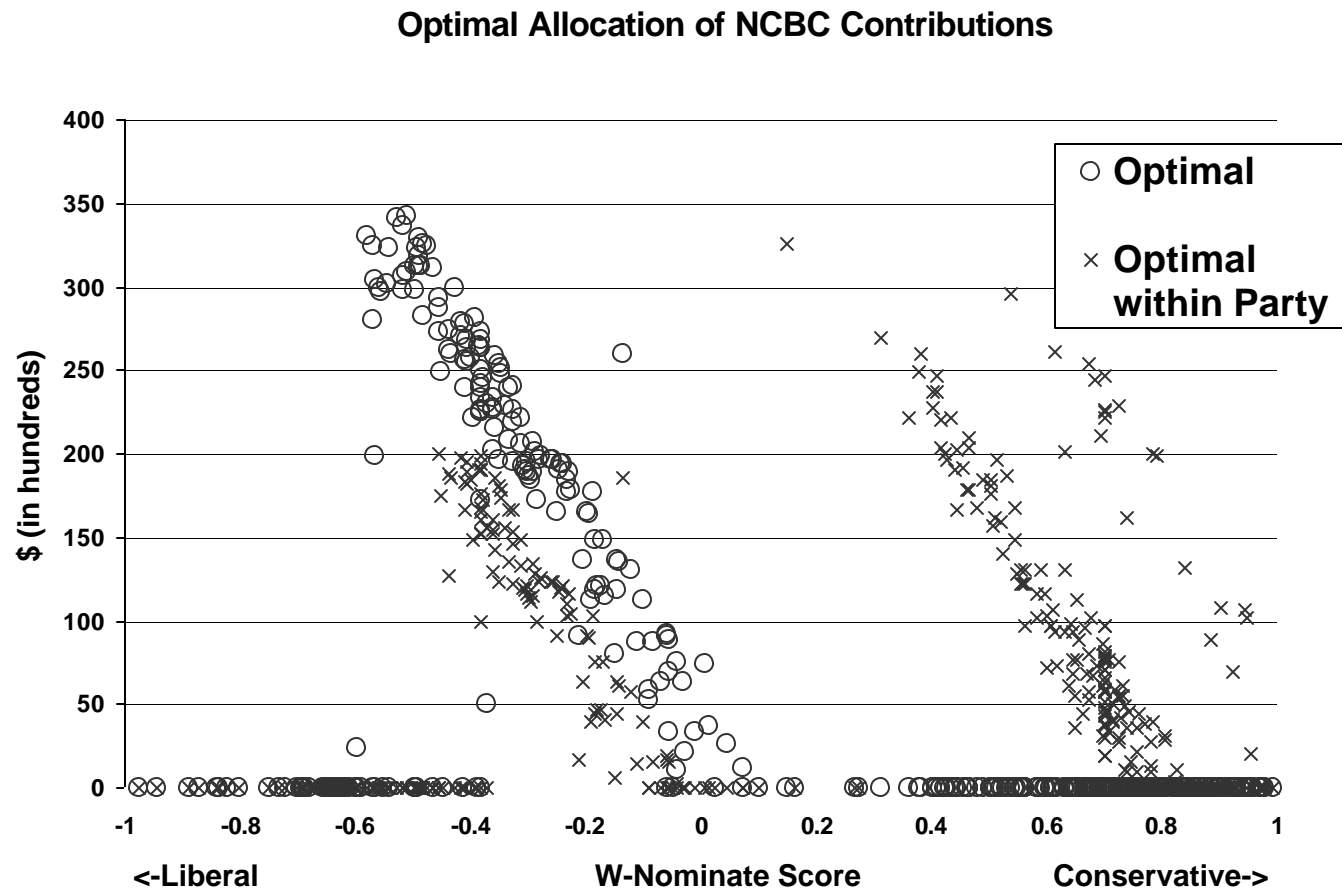


Figure 2.



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## ENDNOTES

<sup>1</sup> Legislation passed in both chambers in 1998 and reconciled in conference died when Congress adjourned without the Senate having voted on the conference report.

Legislation introduced in 1999 failed to pass in the fall session of that year.

<sup>2</sup> Senator Charles Schumer (D-NY) was quoted as saying. “There will be a bankruptcy bill, but it will be different from the one drafted by the Republicans.”

[www.bankruptcyfinder.com/recentnews.html](http://www.bankruptcyfinder.com/recentnews.html), May 29,2001.

<sup>3</sup> See *CQ Weekly*, March 10, 2001, p. 543.

<sup>4</sup> *CQ Weekly*, Nov. 10, 2001, p. 2668.

<sup>5</sup> See Philip Shenon, “Vote on Bankruptcy Bill Is Stalled by Abortion Provision”, *New York Times*, Section C, Page 2, Column 1, July 30, 2002.

<sup>6</sup> This view was expressed by David Skeel of the University of Pennsylvania Law School, quoted in David Wessel, “A Law's Muddled Course”, *The Wall Street Journal*, at 1 (Feb. 22, 2001).

<sup>7</sup> Warren was quoted at [www.tompaine.com/features/2001/02//27.5.html](http://www.tompaine.com/features/2001/02//27.5.html)

<sup>8</sup> See American Bankruptcy Institute

<http://www.abiworld.org/media/newmediafront.html>, posted August 18, 2002.

<sup>9</sup> For example, the House bill in 2000 initially contained a provision that would have allowed creditors to tap the pension fund assets of debtors. See *CQ Weekly*, May 6, 2000, p. 1045.

<sup>10</sup> David Skeel, personal communication.

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<sup>11</sup> This assumption is plausible because core Democratic constituencies in consumer groups, labor unions, and women's groups opposed the bill. Similarly, with reference to the 106<sup>th</sup> Congress bill, *CQ Weekly* claimed, "Privately, Democrats attributed the strong vote in favor of the bill to the sentiment that Clinton would veto it and the belief that time would run out before a veto took effect." (Dec. 9, 2000, p. 2811). Such soft support for the bill is consistent with money being necessary to produce votes.

<sup>12</sup> Strictly speaking, the formal model of Groseclose and Snyder features deterministic in contrast to our probabilistic empirical specification. But the basic insights of Groseclose and Snyder carry over. The first mover wants to allocate contributions such that it is equally difficult to buy probability from anyone receiving contributions.

<sup>13</sup> Whether committees are empirically "preference outliers" in terms of their liberal-conservative preferences has led to a methodological debate in the literature. See Poole and Rosenthal (1997, ch. 9) for a summary.

<sup>14</sup> The results were based on a sample of votes coded by Cox and McCubbins (1993).

<sup>15</sup> Normally, Judiciary would have sole jurisdiction on bankruptcy bill. Banking and Financial Services acquired jurisdiction because the bill contains provisions related to credit card issuers. We thank Todd Zywicki for this observation.

<sup>16</sup> States would remain free to choose a lower level.

<sup>17</sup> The data used is total PAC and individual contributions from the mentioned sources during the 2000 election cycle, which runs from the beginning of 1999 to Election Day in November 2000. The data was downloaded from

<http://www.opensecrets.org/news/bankruptcy/index.htm>. The NCBC and the finance and

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credit companies were the two groups that the Center chose to indicate as the main proponents of the bankruptcy bill.

<sup>18</sup> See <http://www.abiworld.org/legis/review/proposals/ncbcletter.html>, posted July 18, 1997.

<sup>19</sup> For the record, we ran the model of equation (5) of Table 1 in a probit-tobit setup where the contribution equation included WNOM, BCOM, JCOM, MARGIN, and TERMS. TERMS is a measure of seniority, number of terms served. The other variables are described in the text. We ran a second specification adding total other contributions to the equation predicting NCBC contributions. The NCBC contribution equation is fairly standard for the literature, as in Stratmann (1995). The equation correlation coefficient's point estimate was only 0.09 (.12 with other contributions included), and the estimate was very imprecise. Although contributions did not have a statistically significant impact on the vote in this setup, the point estimate, in both specifications, is 80 percent of its magnitude in the single equation model.

<sup>20</sup> Summary statistics for all variables can be found in the Appendix.

<sup>21</sup> The fact that Rogers became a member of the Financial Services committee is indicative of the results of Thompson (2001). She shows that campaign contributions anticipate committee membership.

<sup>22</sup> LaFalce's web site (<http://www.house.gov/lafalce/>) indicates that his major activity in Congress is to sponsor consumer protection legislation.

<sup>23</sup> In order to create the "FILE" variable we used personal bankruptcy filings data by federal judicial district for the year 2000. This data was prepared by the American Bankruptcy Institute and is found at <http://www.abiworld.org/stats>. For judicial districts,

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the numbers were then changed to per household using 1990 demographic data found at <http://www.fedstats.gov/qf/>. Households for 2000 were then approximated by increasing the number using the overall population growth rate between 1990 and 2000. Those congressmen whose districts lay entirely within a judicial district received the per capita filings value of the judicial district (most often the case when state and judicial district borders were the same). For those congressmen whose districts lay in two or more judicial districts, their value was determined by assigning the value of the judicial district in which the largest population center/city of the congressional district was located. For the Senate analysis, we used the number of households in 2000 directly.

<sup>24</sup> The data was downloaded from [voteview.uh.edu](http://voteview.uh.edu).

<sup>25</sup> All logit, ordered logit, and ordinary least squares regressions were performed using STATA.

<sup>26</sup> See Stratmann (1995) for a model where voting is influenced by contributions from two election cycles.

<sup>27</sup> See *CQ Weekly*, April 4, 1999, p. 961. We thank Todd Zywicki for this point.

<sup>28</sup> Although neither ideology variable is significant, at conventional levels, in equations (2) and (3) of Table 2, the joint F-test for the variables is significant at the 0.01 level. When entered separately, either WNOM or its square indicate that contributions are increasing in ideology, opposite what would have been expected from the Groseclose-Snyder model.

<sup>29</sup> [http://thomas.loc.gov/cgi-](http://thomas.loc.gov/cgi-bin/bdquery/D?d107:1:./temp/~bd0SBm:@@L&summ2=m&/bss/d107query.html)

[bin/bdquery/D?d107:1:./temp/~bd0SBm:@@L&summ2=m&/bss/d107query.html](http://thomas.loc.gov/cgi-bin/bdquery/D?d107:1:./temp/~bd0SBm:@@L&summ2=m&/bss/d107query.html)

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<sup>30</sup> These six states were the ones mentioned in floor debate recorded in the *Congressional Record*. In a recent working paper by Posner, Hynes, and Malani (2001), Arkansas is also listed as an unlimited exemption state. The unlimited exemption in Arkansas, however, is limited to ¼ acre “town” lots and 80-acre “rural” lots. (We thank Eric Posner for these details.) The town limitation makes the “unlimited” designation problematic. We follow the floor debate designations in our analysis; we also note how treating Arkansas as an exemption state would affect results. Note more generally that, because state laws define exemptions in terms of acreage as well as dollars, there is ambiguity in which states are “unlimited”. For example, *CQ Weekly* has consistently excluded Oklahoma and declared there are only five “unlimited” states. (As on Feb. 10, 2001, p. 330).

<sup>31</sup> An indication of how local interests can trump ideology on this issue is that during debate on the 1999 House bill, Texas Democrat Sheila Jackson-Lee. introduced an amendment to eliminate an exemption cap. (*CQ Weekly*, April 24, 1999, p. 961.) In 2001, Jackson-Lee introduced the only pro-debtor amendment subject to a roll call vote.

<sup>32</sup> Our information about committee action comes from the markups pages of the web site of the *National Journal* (<http://nationaljournal.com>). On the details of the abortion compromise, see *CQ Weekly*, March 3, 2001, p. 481.

<sup>33</sup> A similar instrument was used by Levitt (1996) and Romano (1997).

<sup>34</sup> In addition to EXEM, we used data presented in Posner, Hynes, and Milani (2001) to construct the following additional variables: LEVEL, the current household exemption level in the state, top-coded to \$200,000 for states with unlimited exemptions; OVER = max(LEVEL-\$125,000,0); OPTOUT = 1 if a state had opted out of the 1978 exemption

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legislation, = 0 otherwise; and OPTOVER = OPTOUT\*OVER. Note that it is possible for a state to have OVER>0 but OPTOUT=0. Using the standard chi-square test, we accepted the null hypothesis, at the 0.05 level, that adding this set of variables did not improve the log-likelihood of the specifications of columns (2) and (3) of Table 4. This result and further exploration of specifications using various subsets of these variables, WNOM, and EXEM suggested that we omit further discussion of these variables..

<sup>35</sup> As indicated in a previous note, there is ambiguity in how Arkansas should be coded on EXEM. Coding Arkansas as exempt increases the Pseudo R<sup>2</sup> for columns (1) and (2). The only substantive change in these two columns is that the interaction becomes insignificantly negative for column (2). For column (3), the pseudo R<sup>2</sup> falls to 0.29 and none of the variables are significant. (However, if the interaction term is eliminated, both WNOM and EXEM are significant with the expected sign; the R<sup>2</sup> is 0.21.) In contrast, the results of column (4) are highly similar to those reported in the table.

<sup>36</sup> The behavior of House Judiciary committee Democrats in committee as well as on the floor is evidence against the “preference outlier” theory of congressional committees. Clearly the House Judiciary Democrats were not “captured” by the credit card industry. This may reflect consumer bankruptcy being a small part of the committee’s jurisdiction and not a primary reason for members to seek membership on the committee.

<sup>37</sup> Sullivan, Warren, and Westbrook (2001, p. 21) present evidence that fewer than 10% of all bankruptcy filers have income above median income.

<sup>38</sup> All but Kuhn were pointed to by Herb Kohl on the Senate floor. See *Congressional Record*, March 15, 2001, p. S2329.

<sup>39</sup> *Congressional Record*, March 15, 2001, p. S2329.